IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.361 of 2002**
DATE OF DECISION: February 7, 2007

ISWAR SINGH ...PETITIONER

VERSUS

STATE OF HARYANA AND ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.

PRESENT: MR. R.K. MALIK, ADVOCATE FOR THE PETITIONER.
MR. ANMOL RATTAN SIDHU, ADDL.A.G., HARYANA
WITH MR. RAJEEV KWATARA, SR.DAG, HARYANA.

ASHUTOSH MOHUNTA, J. (ORAL)

The petitioner was appointed as Mali-cum-Chowkidar on daily wage basis on 2.2.1987 and his services were regularized w.e.f. 1.2.1996. The petitioner retired from service on attaining superannuation on 30.11.2001. As the petitioner had not put in 10 years of service as a regular employee hence he was denied pension.

The petitioner claims that period of service rendered by him as a daily wager should be counted towards qualifying service for pension. Mr. Malik, counsel for the petitioner contends that although the petitioner had rendered un-interrupted service of 14 years 9 months and 28 days but he has been denied pension on the ground that he has rendered regular service for only 5 years 9 months. Learned counsel has placed reliance on the judgement in *Hari Chand* vs. *Bhakra Beas Management Board and others* reported as 2005(4) SLR 215 wherein, the service rendered by an employee as a daily wager was counted towards qualifying service of pension. The

petitioner has also relied on the judgement in *Mohan Singh* vs. *State of Haryana* reported as 1991(3) SLR 684 wherein, this Court has held that it would be unjust and un-equitable that the period during which the employee served as daily wager is excluded while computing the qualifying service for the grant of pensionary benefits.

Learned counsel for the State could not counter the judgements cited by the counsel for the petitioner.

A perusal of the aforementioned facts clearly shows that the petitioner had worked as daily wager from 2.2.1987 upto 1.1.1996. The ratio of *Hari Chand's case* as well as *Mohan Singh's case* (supra) are clearly applicable to the facts of the present case and hence the services rendered by the petitioner as daily wager would have to be counted for computing the grant of pensionary benefits. Resultantly, the writ petition is allowed and a direction is issued to the respondents to grant all the pensionary benefits to the petitioner treating his entire service w.e.f. 2.2.1987 to 30.11.2001, to be qualified for the purpose of grant of pensionary benefits. However, in the facts and circumstances of the present case, the petitioner is not entitled to any interest on the pensionary benefits which have been granted to the petitioner. The respondents shall pay the retiral benefits to the petitioner within a period of six months.

February 7, 2007 **(ASHUTOSH MOHUNTA)**
Gulati **JUDGE**